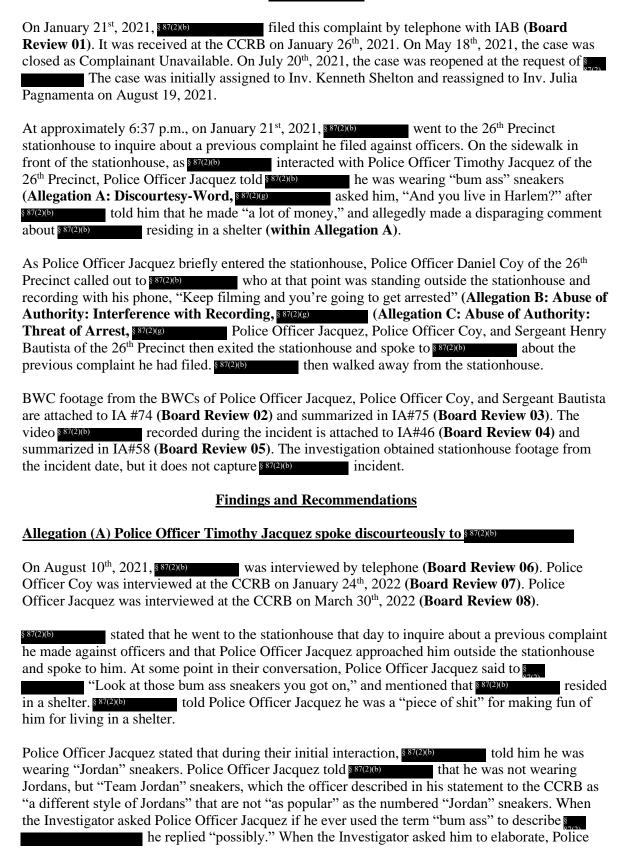
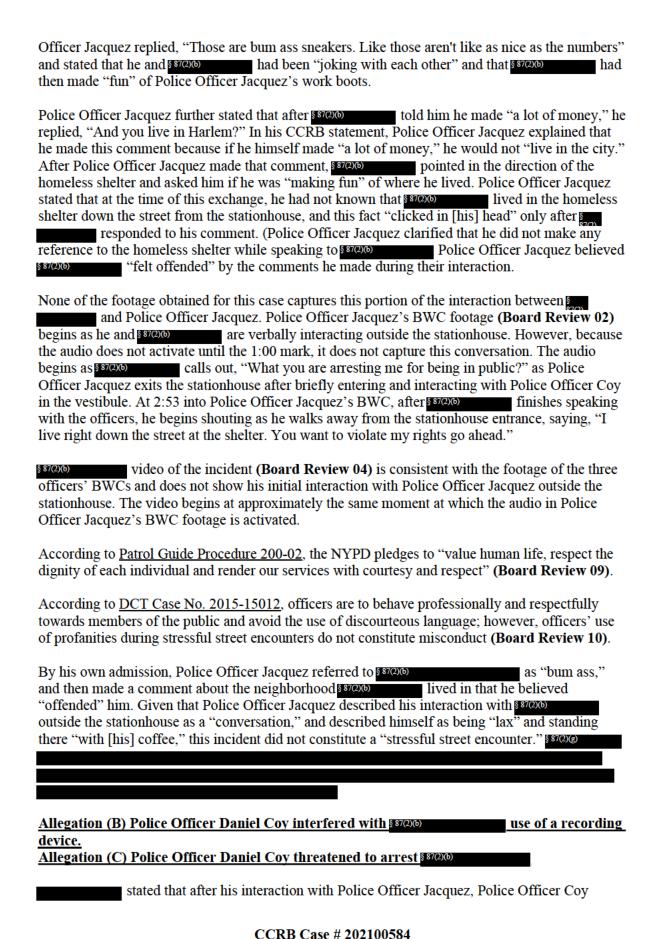
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☐ Force	\checkmark	Discourt.	U.S.
Julia Pagnamenta		Squad #02	202100584	☑ Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:		18 Mo. SOL		Precinct:	
Thursday, 01/21/2021 6:37 PM		26th Precinct Stationhouse		7	7/21/2022		26
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/T	ime Rec	eived at CCI	B
Thu, 01/21/2021 7:00 PM		IAB	Phone	Tue, 01	/26/202	1 11:16 AM	[
Complainant/Victim	Type	Home Addre	ss				
Subject Officer(s)	Shield	TaxID	Command				
1. POM Daniel Coy	00380	938282	026 PCT				
2. POM Timothy Jacquez	10861	968508	026 PCT				
Witness Officer(s)	Shield N	o Tax No	Cmd Name				
1. SGT Henry Bautista	01055	929693	026 PCT				
Officer(s)	Allegatio	n		I	avestig	ator Recon	nmendation
A . POM Timothy Jacquez	Discourtesy: Police Officer Timothy Jacquez spoke discourteously to §87(2)(b)						
B . POM Daniel Coy	Abuse: Police Officer Daniel Coy interfered with use of a recording device.			2)(6)			
C . POM Daniel Coy	Abuse: Police Officer Daniel Coy threatened to arrest § \$7(2)(b)						

Case Summary





exited the stationhouse and told him, "Keep filming and you're going to get arrested."

Police Officer Coy stated he first noticed ("outside" the stationhouse entrance door, as he "appeared" to be "trying" to "come in" while recording with his phone "directed directly inside the precinct." As Police Officer Coy exited the stationhouse to see if Police Officer Jacquez needed any assistance, he informed ("say") that he could not record inside the stationhouse and would be arrested. In his statement, Police Officer Coy explained that ("say") could have been arrested for trespassing <i>if</i> he had entered the stationhouse while recording and that he had informed him of this fact since it "seemed" like ("say") was "trying" to enter while recording. Police Officer Coy clarified that ("say") had not entered the stationhouse at any point during their interaction, as Police Officer Coy had been standing at the door "bocking his way." ("say") never actually attempted to enter the stationhouse and never committed trespassing in Police Officer Coy's presence. Police Officer Coy's understanding was that civilians were "allowed to record outside" the stationhouse but they could not "come inside and record."
At the 15 second mark in strong video recording (Board Review 04), Police Officer Coy calls out to from inside the stationhouse vestibule, as strong is standing outside filming in the direction of the stationhouse doors, "Keep filming and you're going to get arrested." replies, "Keep filming? What charge is that? I'm on public property. What charge is that? If it's you come into the building you can't record. You can't say nothing about public property." Police Officer Jacquez, Police Officer Coy, and Sergeant Bautista then exit the stationhouse, and speak to strong that he is "filming," and strong that he is "filming." and strong that the sign in the stationhouse states that filming is prohibited inside the building, but that he is "in public." At 00:46, as Police Officer Coy stands by the entrance door, he tells strong "You're filming inside. You've got to leave." repeats several more times that he's "in public." Sergeant Bautista then asks strong how they can "help" him. At no point does the video show entering or trying to enter the stationhouse.
The three BWC videos (Board Review 02) received for this incident are consistent with video, and at no point do they show entering or trying to enter the stationhouse while recording on his phone.

NYPD Patrol Guide Procedure 203-29 states that "Members of the public are not allowed to photograph and/or record police activity within Department facilities. Members of the service may order any member of the public who is photographing or recording within Department facilities to stop such activity. If such person refuses to stop, they then should be ordered to leave the premises. If such person refuses to leave the premises, members of the service may take proper enforcement action under the trespass statutes." However, the Patrol Guide also states that "Individuals have a right to lawfully observe and/or record police activity including, but not limited to detentions, searches, arrests or uses of force. This right extends to individuals in public places, such as streets, sidewalks, and parks, as well as private property in which the individual has a legal right to be present, such as buildings, lobbies, workplaces or an individual's own property" and that "Absent additional actions constituting a violation of law, an individual CAN NOT be arrested for: (1) Taking photographs, videotaping, or making a digital recording" (Board Review 11).

Per <u>NYS Penal Law Section 140.05</u>, "a person is guilty of trespass when he knowingly enters or remains unlawfully in or upon premises" (**Board Review 12**).

§ 87(2)(g)	
-	
	the fact that at the

point in the incident when Police Officer Coy told that if he kept filming he would be arrested \$87000 had been filming on the sidewalk outside of the stationhouse, and in light
of the fact that by Police Officer Coy's own admission, \$87(2)(6) was allowed to record
outside, had never entered the stationhouse during their interaction, and had not committed trespass in his presence, \$87000
Civilian and Officer CCRB Histories
● § 87(2)(b)
• ===
 Police Officer Coy has been a member of service for 16 years and has been a subject in four other CCRB complaints and seven other allegations, none of which were substantiated.
 Police Officer Jacquez has been a member of service for two years and this is his first CCRB complaint.
Mediation, Civil and Criminal Histories
Mediation was not offered due to the Agency moratorium on sending cases to Mediation.
• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(e)]
 A Notice of Claim search request was sent to the New York City Office of the Comptroller on March 30th, 2022. Any responsive Notice of Claim will be added to the case file upon receipt (Board Review 15).
Squad No.: <u>2</u>

Investigator:	Julia Pagnamenta Signature	Inv. Pagnamenta Print Title & Name	04/05/2022 Date
Squad Leader	: <u>Alexander Opoku-Agy</u> Signature	vemang IM Opoku-Agyemang Print Title & Name	4/5/2022 Date
Reviewer:			
	Signature	Print Title & Name	Date